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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 ARIF AKHTAR,
12 Plaintiff,
13 v.
14 COMPOUND LABS, INC.,
15 COMPOUNDDEFI, INC., AND
DOES 1-9.
16 Defendants.
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Case No. 2:23-CV-07440

**DEFENDANT COMPOUND
LABS, INC.'S OPPOSITION TO
PLAINTIFF'S REQUEST TO
REMAND**

1 **I. INTRODUCTION**

2 Plaintiff Arif Akhtar’s “Response and Opposition Against Removal of Case
3 to Federal Court” (“Removal Opposition” or “Removal Opp.”), ECF No. 14,
4 appears intended to serve as a motion to remand, so Defendant Compound Labs,
5 Inc. (“Compound Labs”) hereby responds accordingly.¹ Plaintiff has not
6 established a basis to remand this action to state court. As detailed herein, the
7 Court can and should exercise supplemental jurisdiction over Plaintiff’s state-law
8 claims as those claims and the securities fraud claim derive from a common nucleus
9 of operative fact and thus should be heard together in federal court. Moreover,
10 there is no exceptional circumstance that would warrant declining to exercise
11 supplemental jurisdiction here. Accordingly, Plaintiff’s request for remand should
12 be denied.

13 **II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

14 On September 28, 2022, Plaintiff commenced this action in Ventura County
15 Superior Court by filing a complaint entitled Arif Akhtar v. Compound Labs, Inc.,
16 CompoundDefi, Inc., and Does 1-9. The complaint was served on Compound Labs
17 on August 10, 2023.

18 Plaintiff seeks \$5 million in damages from Compound Labs for an alleged
19 theft of a nearly \$8,000 investment he claims to have made—a purchase of
20 cryptocurrency that Compound Labs has no record of. Plaintiff alleges that
21 someone purporting to represent Compound Labs assured him that his investment
22 was “risk-free” but instead stole his funds from him. Based on the evidence
23 Plaintiff attached to his Complaint, Plaintiff appears to be the victim of a
24 scheme by third parties who impersonated Compound Labs to defraud Plaintiff, as
25 the screenshots submitted as exhibits to the Complaint are not from websites or
26 persons affiliated in any way with Compound Labs.

27
28 ¹ Compound Labs notes that Plaintiff has not set a hearing in connection with his filing, and
Compound Labs does not believe that one is necessary.

1 The causes of action in the complaint include a claim for fraud premised on
 2 alleged violations of the Securities Act of 1933 and the Securities Exchange Act of
 3 1934 (collectively, the “Securities Acts”). ECF No. 1 (Notice of Removal, Ex. A
 4 (“Compl.”)). Plaintiff seeks, among other things, declaratory relief that Compound
 5 Labs violated the Securities Acts.

6 On September 8, 2023, Compound Labs filed a Notice of Removal in this
 7 Court. ECF No. 1 Compound Labs subsequently moved to dismiss Plaintiff’s
 8 complaint on September 14, 2023. ECF No. 11. Plaintiff did not file an opposition
 9 to the motion to dismiss. Instead, Plaintiff filed the instant Removal Opposition
 10 first in state court on September 27, 2023 and then in this Court on October 3,
 11 2023. ECF No. 14.

12 **III. LEGAL STANDARD**

13 A state-court defendant may remove an action to federal court if the action
 14 originally could have been brought there. 28 U.S.C. § 1441(b). A plaintiff may
 15 move to remand the matter to state court if the federal court lacks jurisdiction. *Id.*
 16 § 1447(c). If jurisdiction exists and has been properly invoked, however, the court
 17 has no discretion to remand. *See Grote v. Trans World Airlines, Inc.*, 905 F.2d
 18 1307, 1310 (9th Cir. 1990) (implicitly overruled on other grounds, *Moore-Thomas*
 19 *v. Alaska Airlines, Inc.*, 553 F.3d 1241 (9th Cir. 2009)). “[W]henver the subject
 20 matter of an action qualifies it for removal the burden is on a [party seeking
 21 remand] to find an express exception.” *Breuer v. Jim’s Concrete of Brevard, Inc.*,
 22 538 U.S. 691, 698 (2003). Accordingly, “[t]here is no presumption against federal
 23 jurisdiction in general, or removal in particular.” *Back Doctors, Ltd. v. Metro.*
 24 *Prop.*, 637 F.3d 827, 830 (7th Cir. 2011).

25 **IV. ARGUMENT**

26 **A. Removal Was Timely.**

27 Compound Labs timely filed for removal. Under 28 U.S.C. § 1446(b),
 28 “[e]ach defendant shall have 30 days after . . . service on that defendant of the

1 initial pleading or summons . . . to file the notice of removal.” Here, Compound
 2 Labs was served on August 10, 2023,² and filed its Notice of Removal on
 3 September 8, 2023, twenty-eight days after service.

4 **B. This Court Has Jurisdiction Over The Subject Matter Of All**
 5 **Claims Involved In This Litigation.**

6 Contrary to Plaintiff’s assertion, this Court has jurisdiction over his securities
 7 fraud claim *as well as* his related state law claims pursuant to Sections 1331 and
 8 1367 such that all claims can be adjudicated in federal court together. Plaintiff
 9 concedes that the Court has subject matter jurisdiction over his securities fraud
 10 claim (Removal Opp. 2), so there is no real dispute over whether that claim was
 11 properly removed. Nor could there be. Plaintiff’s cause of action for fraud arises
 12 under the Securities Exchange Act of 1934 as Plaintiff alleges “[t]he Defendants
 13 violated the Securities Act(s) which grants Plaintiff a right of action for damages
 14 against them and the Defendants for their violations of this provision.” Compl.
 15 Fourth Cause of Action ¶ 6. Plaintiff further seeks a declaration “that Defendants
 16 are liable to Plaintiffs [sic] under the Securities Act of 1933, the Exchange Act of
 17 1934.” Compl. Prayer for Relief. Thus, as pled, a “substantial, disputed question
 18 of federal law is a necessary element” of the fraud claim. *Rains v. Criterion*
 19 *Systems, Inc.*, 80 F.3d 339, 345 (9th Cir.1996). Accordingly, the fraud claim gives
 20 rise to federal jurisdiction under 28 U.S.C. § 1331. In other words, the fraud claim
 21 “necessarily” raises federal questions because it is affirmatively “premised” on a
 22 violation of federal law. *Grable & Sons Metal Prod., Inc. v. Darue Eng’g & Mfg.*,
 23 545 U.S. 308, 314 (2005).

24 Moreover, Section 27 of the Securities Exchange Act of 1934, 15 U.S.C.
 25 § 78aa(a), also confers federal jurisdiction. *See Merrill Lynch, Pierce, Fenner &*

26 _____
 27 ² Plaintiff incorrectly states that Compound Labs was “served four times.” Removal Opp 1. In
 28 fact, the docket for the state court action reflects that Plaintiff filed only one valid proof of service
 for the Complaint dated August 10, 2023. *Akhtar v. Compound Labs, Inc., et al.*, Case No. 62-
 2022-00570529-CUBCVTA (Ventura Cnty. Sep. 28, 2022).

1 *Smith Inc. v. Manning*, 578 U.S. 374, 393 (2016) (holding that 15 U.S.C. § 78aa(a)
 2 confers exclusive federal jurisdiction of the same suits that “arise under” the
 3 Securities Exchange Act of 1934 pursuant to 28 U.S.C. § 1331). Following *Merrill*
 4 *Lynch*, while removal to federal court is not automatic under Section 27, state law
 5 claims should be removed to federal court if they “arise under” federal law such as
 6 the Securities Act of 1934. *Id.*

7 Indeed, Plaintiff specifically alleges that there is “subject matter jurisdiction
 8 over this action pursuant to 28 U.S.C. § 1367, 15 U.S.C. 77v, and 15 U.S.C. § 78
 9 because Plaintiff allege [sic] violations of the Securities Act of 1933 and Securities
 10 Exchange Act of 1934.” Compl. 3. However, Plaintiff incorrectly asserts that
 11 California state court has such subject matter jurisdiction, which it does not given
 12 federal courts have exclusive jurisdiction over claims for violations of the Securities
 13 Exchange Act of 1934. *See* 15 U.S.C. § 78aa(a).

14 Given the Court has jurisdiction over Plaintiff’s securities fraud claim, the
 15 Court has supplemental jurisdiction over the related state-law claims pursuant to
 16 Section 1367. 18 U.S.C. § 1367. Plaintiff does not appear to dispute the existence
 17 of supplemental jurisdiction over the state-law claims. Rather, he requests the
 18 Court decline to exercise such jurisdiction in its discretion. But, as explained
 19 below, there is no basis to do so.

20 **C. The Court Should Exercise Supplemental Jurisdiction Over** 21 **Plaintiff’s State Law Claims.**

22 The only dispute raised by Plaintiff is whether the Court should exercise
 23 supplemental jurisdiction over Plaintiff’s state law claims. Section 1367 grants the
 24 Court discretion to remand the state law claims in four specific statutorily
 25 delineated circumstances, only three of which are relevant here. Namely, the Court
 26 “may” remand Plaintiff’s state law claims that (1) “raise[] a novel or complex issue
 27 of State law,” (2) “substantially predominate[] over the [securities fraud claim],” or
 28

1 (3) present “exceptional circumstances” where “there are other compelling reasons
2 for declining jurisdiction.” 28 U.S.C. § 1367(c).

3 *First*, Plaintiff does not suggest that the state law claims are novel or
4 complex, nor could he, as the complexity of the alleged fraudulent scheme is typical
5 of those raised in other cases before this Court, and this Court is well-equipped to
6 apply relevant precedent in arriving at its decisions.

7 *Second*, Plaintiff posits, with no analysis, that the state-law claims
8 predominate, but that is not the case. A mere numerical count of the state and
9 federal claims has no place in this inquiry. *Hendon v. California State Senate*,
10 No. 21-CV-00505-BAS-MDD, 2022 WL 345641, at *4 (S.D. Cal. Feb. 4, 2022)
11 (“[W]hether state law claims substantially predominate over federal claims is a
12 qualitative—not quantitative—inquiry ... and the mere fact that a plaintiff’s state
13 claims outnumber [his] federal claims, without more, is insufficient to satisfy the
14 ‘substantially predominate’ standard.”). Here, the proof and issues underpinning
15 Plaintiff’s state-law claims bear heavily on his securities fraud claim. The same
16 alleged representations, investment, and loss of assets are at issue with all claims.

17 *Third*, Plaintiff asserts that the Court should decline to exercise supplemental
18 jurisdiction in “[t]he interests of judicial economy, fairness, and comity” and
19 because removal is “inconvenient under the Doctrine of Flexibility.” Removal
20 Opp. 3. However, the doctrine of pendent jurisdiction (which Plaintiff refers to as
21 “the ‘Doctrine of Flexibility’”) supports exercising supplemental jurisdiction here.
22 The doctrine of pendent jurisdiction dictates that “a federal court has jurisdiction
23 over an entire action, including state-law claims, whenever the federal-law claims
24 and state-law claims in the case ‘derive from a common nucleus of operative fact’
25 and are ‘such that a plaintiff would ordinarily be expected to try them all in one
26 judicial proceeding.’” *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 389 (1988)
27 (quoting *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966)). That is
28 precisely the case here – all claims arise from an alleged scheme to defraud the

1 Plaintiff of his crypto assets, which resulted in the loss of Plaintiff's \$12,083.28
 2 investment. It is therefore appropriate for the Court to exercise pendent jurisdiction
 3 over Plaintiff's state law claims.

4 While Plaintiff relies on *Cohill* to support his position, that case is factually
 5 inapposite as it considered whether a federal court has discretion to remand a
 6 properly removed case to state court after all federal-law claims have been
 7 eliminated such that only pendent state-law claims remain. 484 U.S. at 345. But
 8 here, the federal-law claim remains pending, so the "interests of judicial economy,
 9 fairness, and comity," *id.* at 351, do not weigh in favor of remand as they did in
 10 *Cohill*. Likewise, Plaintiff's reliance on *Eastman v. Marine Mech. Corp.* is equally
 11 unavailing as it reiterates that the court retains discretion to remand "if an
 12 amendment eliminates all the federal claims," 438 F.3d 544, 551 (6th Cir. 2006),
 13 which again is not the disposition of this case. To the extent that the securities
 14 fraud claim is ultimately dismissed, these cases make clear that the Court will
 15 nonetheless be able to retain jurisdiction over the pendent state-law claims in its
 16 discretion.

17 **V. CONCLUSION**

18 Compound Labs respectfully requests that Plaintiff's request for remand be
 19 denied.

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 21 Dated: October 13, 2023

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22
 23
 24 By: /s/ Benjamin Au

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